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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,178	10/11/2001	V. C. Saied	5342.7-1	9110

23559 7590 10/06/2003

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EXAMINER

BROWN, MICHAEL A

ART UNIT PAPER NUMBER

3764

DATE MAILED: 10/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/975,178

Applicant(s)

V. Saied

Examiner

Michael Brown

Group Art Unit

3764

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-51 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 21-41 and 45-48 is/are allowed.
- ☒ Claim(s) 1-17 and 19-20 and 42-44 is/are rejected.
- ☒ Claim(s) 18 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 29-23
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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DETAILED ACTION

Claim Rejections - 35 U.S.C. § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 7-9, 13 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Stafford.

Stafford discloses in figures 1-5 an endotracheal intubation assistant device comprising a first chamber 10, a second chamber (the other 10), a supply of an inflatant 44 that consist of a gas and liquid (col. 3, lines 20-25), the chambers are inflatable and deflatable independently (via switches 22) of one another, and a hand operated controller 20.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 49 is rejected under 35 U.S.C. 102(b) as being anticipate by Stafford.

Stafford discloses in figures 1-5 an endotracheal intubation assistant device comprising a first section 12, a second section 12, a first platform 10 and a second platform 10. The first

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platform can be raised and the second platform lowered or the second platform can be raised and the first platform lowered.

Claim Rejections - 35 U.S.C. § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stafford in view of Giori.

Stafford discloses in figures 1-5 an endotracheal intubation assistant device, substantially as claimed. However, Stafford does not disclose the first and second chambers comprising a self expanding foam. Giori teaches in figures 1-2 a pressure adjustable mattress comprising a first chamber 14, a second chamber 16 and a self expanding foam 24 inside of each chamber. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the self inflating foam as taught by Giori could be substituted for the supply of inflatant as disclosed by Stafford because either air source could be used to inflate the two chambers.

7. Claims 10-12, 14-17, 19-20, 43-44 and 50-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stafford in view of Starr, along with Moy.

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Stafford discloses in figures 1-5 an endotracheal intubation assistant device, substantially as claimed. However, Stafford does not disclose a foot pedal couple to the controller or a pressure applicator. Starr teaches in figures 1-6 a patient lifting device comprising a foot pedal (col.3, lines 1-2) that is coupled to a controller (valve 24 controls the flow of air) to inflate a chamber 12. Moy teaches in figure 1 a foot pedal coupled to bellows and an adjustable pressure applicator 61 that is a strap. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the foot pedal and the bellows as taught by Moy could be used to inflate the chambers disclosed by Stafford. Starr was used as a teaching to incorporate the foot pedal and the bellows into lifting a person with chambers. The pressure applicator could be used to apply pressure to various portion of the body. The pressure applicator has a chamber (the inside of the inflatable cuff) that is inflatable and deflatable independent of the two chambers disclosed by Stafford (there is no connection between the three chambers). It is old and well known in the art that switches can be voice activated.

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Allowable Subject Matter

8. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Claims 21-41 and 45-48 are allowed.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Arblaster, Popitz '136, Popitz '774, Cumberland, Bremer, Kung, Bechtold, each discloses a support for the head and shoulders of a patient. Although each of these references is pertinent prior art, neither was used to reject any claims, in the first office action.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is (703) 308-2682.

M. Brown
September 23, 2003



Michael A. Brown
Primary Examiner